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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Applications of)	MM Docket No. 93-89
)	
AURIO A. MATOS)	File No. BPH-911114MS
)	
LLOYD SANTIAGO-SANTOS and LOURDES)	
RODRIGUES BONET)	File No. BPH-911115MP
)	
For Construction Permit for a New)	DOCKET FILE COPY ORIGINAL
FM Station on Channel 293A in)	
Culebra, Puerto Rico)	

To: The Review Board

AMENDMENT TO
JOINT REQUEST FOR APPROVAL OF
SETTLEMENT AGREEMENT

Aurio A. Matos ("Matos") and Lloyd Santiago-Santos and Lourdes Rodrigues-Bonet ("Santiago and Rodrigues"), by their attorneys and pursuant to Section 73.3523 of the Commission's Rules, hereby respectfully submit this Amendment to Joint Request for Approval of Settlement Agreement ("Amended Joint Request"). Attached hereto is an Amendment to Settlement Agreement (the "Settlement Amendment") that amends the Settlement Agreement the parties initially filed with the FCC on March 8, 1994. As amended, the parties request that the Settlement Agreement be approved by the Review Board. The amended Settlement Agreement, which will accomplish a universal settlement of the above-referenced proceeding, calls for grant of the Matos application, and the voluntary dismissal of the mutually-exclusive application of Santiago and Rodrigues. The Settlement Amendment stipulates that the consideration paid to Santiago and Rodrigues in consideration for the voluntary dismissal of their application shall be limited to \$50,000.00, a sum already

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determined not to exceed their reasonable prosecution costs and expenses.

I. Settlement History

1. The parties filed a Joint Request for Approval of Settlement on March 8, 1994 (the "Joint Request"). The terms of the Settlement Agreement which was filed with the Joint Request called for grant of the Matos application and the voluntary dismissal of the application of Santiago and Rodrigues. As consideration for voluntarily dismissing their application, Santiago and Rodrigues were to receive a settlement payment of \$50,000.00 representing reimbursement of their reasonable and prudent expenses. In addition, the Settlement Agreement called for Matos to hire Santiago and Rodrigues each as part-time consultants for a period of two years at a fee of \$12,500.00 each.

2. The Review Board concluded that the Consulting Agreements with Santiago and Rodrigues represented "impermissible consideration for the agreement to dismiss their application" and denied the Joint Request. Aurio A. Matos, 76 RR2d 624, 626 (Rev. Bd. 1994). The Board concluded by stating that "because the Consulting Agreements are an essential to the settlement, the settlement must therefore be disapproved." 76 RR2d at 627.

3. The parties present to the Commission as Exhibit 1 to this Amended Joint Request, the Settlement Amendment, executed by the parties to the Settlement Agreement which specifically eliminates that part of the Settlement Agreement where Matos agrees

to hire Santiago and Rodrigues as part-time consultants. The Settlement Amendment specifically limits the amount to be paid to Santiago and Rodrigues in consideration of the voluntary dismissal of their application to \$50,000.00, a sum representing less than the reasonable and prudent expenses they have incurred in the preparation and prosecution of their application. ¹

4. The parties also represent in the Settlement Amendment that the representations and warranties in the Settlement Agreement are true and correct as of today, with the exception of any representations and warranties pertaining to the former Consulting Agreements. Exhibits B, C and D to this Amended Joint Request are the Declarations of Santiago, Rodrigues and Matos, respectively, in support of the Settlement Agreement as amended by the Settlement Amendment.

II. Public Interest Showing

5. The reasons the public interest will be served by approval of the amended Settlement Agreement are the same as set forth in Section III of the Joint Request. The applicants renew herein their representations that their applications were not filed for the purposes of reaching a settlement and that payment to Santiago and Rodrigues will be specifically limited to the amount set forth in the Settlement Amendment (i.e. the reasonable and prudent expenses as set forth in paragraph 5 of the Settlement Agreement).

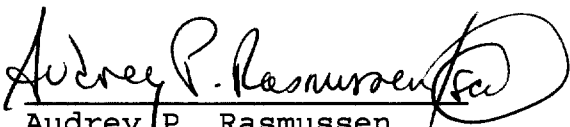
¹ Documentation supplied with the Joint Request and supplemented by Santiago and Rodrigues in a filing with the Commission on April 12, 1994, revealed expenses at that time in excess of \$50,000.00.


III. Qualifications of the Prevailing Applicant

6. No qualifying issues have been designated against applicant Matos. There is only a pending Motion to Reopen the Record and Enlarge the Issues against Matos filed by the Mass Media Bureau on January 28, 1994. The pleading cycle concerning that issue has been completed and the Settlement Agreement as amended by the Settlement Amendment remains contingent upon denial of the MMB's Motion. Matos filed a Petition for Leave to Amend to specify a new site on February 7, 1994. Matos amended his application on May 5, 1994 to report that the FAA had, on May 4, 1994, issued a Determination of No Hazard for the proposed new site at a reduced height. On May 23, 1994, Matos proffered an engineering amendment reflecting the FAA-approved reduced height at his proposed site. Those amendments are still pending, and the Settlement Agreement as amended by the Settlement Amendment is contingent upon grant of the amendments allowing Matos to construct at the site proposed in his February amendment.

WHEREFORE, the undersigned respectfully request (1) that the Renewal of Joint Request for Approval of Settlement be granted; (2) that the MMB Petition be denied (3) that Matos' February 7, 1994, May 5, 1994 and May 23, 1994 amendments concerning his site be accepted; (4) that the Santiago and Rodrigues application be dismissed and (5) that simultaneously the Matos application be granted.

Respectfully submitted,

By: 
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David L. Hill
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Suite 800
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By: 
Scott C. Cinnamon
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Counsel for Aurio A. Matos

Date: February 6, 1995

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AMENDMENT TO SETTLEMENT AGREEMENT

This Amendment to Settlement Agreement ("First Amendment") is made and entered into this 30 day of January, 1995 by and between Aurio A. Matos ("Matos") and Lloyd Santiago Santos and Lourdes Rodriguez Bonet ("Santiago and Rodriguez").

WHEREAS, Matos and Santiago and Rodriguez (collectively, the "Parties") have mutually exclusive applications for a new FM Station to serve Culebra, Puerto Rico pending before the Federal Communications Commission ("FCC"); and

WHEREAS, the Parties entered into a Settlement Agreement on March 1, 1994 to resolve the pending FCC proceeding concerning their mutually exclusive applications; and

WHEREAS, the Settlement agreement provided that Santiago and Rodriguez would voluntarily dismiss their application in consideration of a payment of \$50,000.00; and

WHEREAS, Matos did agree, because of their broadcast and business experience respectively, to hire Santiago and Rodriguez, each individually, as part-time consultants pursuant to certain Consulting Agreements dated July 1, 1994; and

WHEREAS, the Parties filed a Joint Request for Approval of Settlement ("Joint Request") with the FCC on March 8, 1994 and supplement that request on July 22 and August 15, 1994; and,

WHEREAS, the FCC denied the Joint Request in a Memorandum Opinion and Order ("MO&O") released October 11, 1994, primarily because it did not approve of the arrangements the Parties had agreed to in the Consulting Agreements, and

WHEREAS, the Parties continue to believe that it is in their best interests to avoid the time and expense of continued litigation before the FCC; and

WHEREAS, the Parties continue to believe that it is in the best interest of the public to avoid any further delay in the implementation of a new broadcast service to Culebra, Puerto Rico, and

WHEREAS, the Parties believe the best means to achieve that goal is to amend the Settlement Agreement;

NOW, THEREFORE, the Parties agree as follows:

1. Definitions. All capitalized terms herein shall have the same meaning as those terms were given in the Settlement Agreement.

2. Elimination of Consulting Agreement. The Parties agree to amend the Settlement Agreement by deleting Paragraph 6 thereof in its entirety.

3. Consideration. The Parties expressly represent that the total consideration to be paid to Santiago and Rodriguez in consideration for the voluntary dismissal of their application shall be the consideration set forth in Paragraph 5 of the Settlement Agreement. Matos represents that he has not directly or indirectly through an agent, paid or promised to pay any other consideration to Santiago and Rodriguez in consideration of the voluntary dismissal of their application.

4. Continued Truthfulness of Representations and Warranties. The Parties represent that all representations and warranties made in the Settlement Agreement are still true and correct to the best of the knowledge of the Parties as of this date, except for any representations, warranties or duties to perform set forth in paragraph 6 of the Settlement Agreement, which have been made null and void by Paragraph 1 of this First Amendment.

5. Extension of Term. The Parties agree to extend the term of the Settlement Agreement as set forth in Paragraph 7 thereof from February 1, 1995 until August 1, 1995.

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment to Settlement Agreement to be in full force and effect as of the date first written above.

Lloyd Santiago-Santos

Lloyd Santiago Santos

Aurio A. Matos
Aurio A. Matos

Lourdes Rodriguez-Bonet

Lourdes Rodriguez Bonet

DECLARATION

I, Lloyd Santiago-Santos, under penalty of perjury and pursuant to Section 1.16 of the Commission's Rules, do hereby declare:

1. My wife, Lourdes Rodrigues-Bonet, and I filed an application for a new FM broadcast station to serve Culebra, Puerto Rico with the Federal Communications Commission. The application bears FCC File No. BPH-911115MP and was assigned to MM Docket No. 93-89.

2. We have entered into a Settlement Agreement ("Agreement") with Aurio A. Matos ("Matos"), a mutually exclusive applicant for the station in Culebra (BPH-911114MS), whereby our application will be dismissed in return for monetary consideration. The amount of the monetary consideration will not exceed the reasonable and prudent expenses my wife and I have spent in the preparation and prosecution of our Culebra application.

3. Evidence of our reasonable and prudent expenses in the preparation and prosecution of our Culebra application was already provided to the Commission on April 12, 1994 and July 22, 1994. The representations I made in my Declaration of March 3, 1994 remain true and correct to this date except that I do not plan to work as a part-time consultant for Aurio Matos in the event his application is granted and he receives the construction permit for the new Culebra FM station.

4. I have read and am familiar with the Amendment to Settlement Agreement being filed with the FCC, and support all that is contained in that document. Our application for Culebra, Puerto

Rico was not filed for the purpose of reaching or carrying out an agreement for its dismissal. The only consideration that my wife and I will receive is the money paid by Matos, in reimbursement of expenses.

5. I believe that the Agreement, as now amended so that we are not consultants for Matos, is in the public interest because it will conserve our resources and the resources of the FCC, and will allow for the rapid delivery of new service to the community of Culebra, Puerto Rico.

6. No other person or entity has paid or promised any consideration to me or my wife for the dismissal of our Culebra, Puerto Rico application.

Lloyd Santiago Santos

Lloyd Santiago-Santos

Signed and dated this day of January 26, 1995 ~~March, 1994~~.

LSL
K.B.
MB

DECLARATION

I, Lourdes Rodrigues-Bonet, under penalty of perjury and pursuant to Section 1.16 of the Commission's Rules, do hereby declare:

1. My husband, Lloyd Santiago-Santos, and I filed an application for a new FM broadcast station to serve Culebra, Puerto Rico with the Federal Communications Commission. The application bears FCC File No. BPH-911113MP and was assigned to MM Docket No. 93-89.

2. We have entered into a Settlement Agreement ("Agreement") with Aurio A. Matos ("Matos"), a mutually exclusive applicant for the station in Culebra (BPH-911114MS), whereby our application will be dismissed in return for monetary consideration. The amount of the monetary consideration will not exceed the reasonable and prudent expenses my husband and I have spent in the preparation and prosecution of our Culebra application.

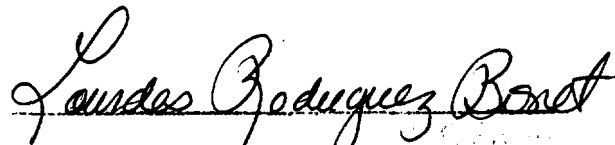
LB
3. Evidence of our reasonable and prudent expenses in the preparation and prosecution of our Culebra application was already provided to the Commission on April 12, 1994 and July 22, 1994. The representations I made in my Declaration of March 3, 1994 remain true and correct to this date except that I do not plan to work as a part-time consultant for Aurio Matos in the event his application is granted and he receives the construction permit for the new Culebra FM station.

4. I have read and am familiar with the Amendment to Settlement Agreement being filed with the FCC, and support all that is contained in that document. Our application for Culebra, Puerto

Rico was not filed for the purpose of reaching or carrying out an agreement for its dismissal. The only consideration that my husband and I will receive is the money paid by Matos, in reimbursement of expenses.

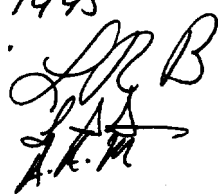
5. I believe that the Agreement, as now amended so that we are not consultants for Matos, is in the public interest because it will conserve our resources and the resources of the FCC, and will allow for the rapid delivery of new service to the community of Culebra, Puerto Rico.

6. No other person or entity has paid or promised any consideration to me or my husband for the dismissal of our Culebra, Puerto Rico application.


Lourdes Rodriguez-Bonet

Signed and dated this ^{January 26 1995} 26 day of ~~March~~, 1994.

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DECLARATION

I, Aurio A. Matos, pursuant to Section 1.16 of the Commission's Rules do hereby declare:

1. I am an applicant for a new FM Station at Culebra, Puerto Rico on Channel 293A (File No. BPH-911114MS). My application is mutually exclusive with the application of Lloyd Santiago-Santos and Lourdes Rodrigues-Bonet ("Santiago and Rodrigues"). Their application bears File No. BPH-911115MP.

2. I have entered into a Settlement Agreement with Santiago and Rodrigues whereby I will be reimbursing them for up to \$50,000 of the expenses in consideration for the voluntary dismissal of their application, which will allow for the grant of my application. I previously agreed to employ Sr. Santiago and Sra. Rodrigues as part-time consultants at the new station for a period of two years for a salary of \$12,500 per year. Based on further negotiation with Santiago and Rodrigues, they have agreed not to serve as consultants. We have entered into an Amendment to Settlement Agreement that eliminates from the Settlement Agreement any reference to Santiago and Rodrigues serving as or being compensated for serving as consultants at the new Culebra FM station.

3. The representations I made in my Declaration of March 3, 1994 to the FCC remain true and correct as of today except that I no longer plan to employ Santiago or Rodrigues as part-time consultants at the new Culebra FM facility. Other than the consideration set forth in the Settlement Agreement, I have neither paid nor received, nor have I been promised payment or promised to

pay any other consideration for the grant of my application and dismissal of the Santiago and Rodriguez application.

4. I believe that approval of the Settlement Agreement would be in the public interest. Approval of the Settlement Agreement will eliminate the need for further hearings (except for the resolution of the Petition to Reopen the Record and Enlarge Issues filed by the Mass Media Bureau on January 28, 1994), and will help conserve applicant and Commission resources. Approval of the Settlement Agreement will also allow for the fastest commencement of new FM service to Culebra, Puerto Rico.

5. I did not file my application for the purposes of effecting settlement of this case. I was and remain fully prepared to prosecute my application, if necessary.


Aurio A. Matos

Signed and dated this 26th day of January 1995

CERTIFICATE OF SERVICE

I, Melissa L. Clement, do certify that on this 6th day of Februry, 1995, a copy of the foregoing was sent via first class mail, postage prepaid or delivered, as indicated, to the parties set forth below:

Honorable Joseph A. Marino, Chairman
The Review Board
Federal Communications Commission
2000 L Street, N.W.
Washington, D.C. 20554 *

Honorable Marjorie Reed Greene
The Review Board
Federal Communications Commission
2000 L Street, N.W.
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2025 M Street, N.W., Suite 7212
Washington, D.C. 20554 *

* - via hand delivery
** - via FCC Mailroom


Melissa L. Clement